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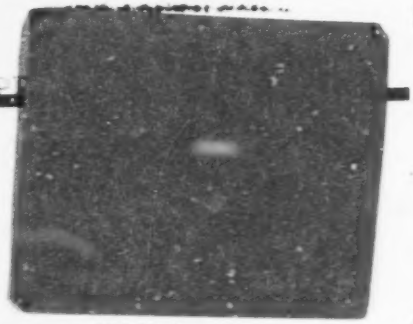

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1996

Addendum

Nepal*

[5 May 1997]

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* This document contains the ninth, tenth, eleventh, twelfth and thirteenth periodic reports, submitted in one document, due on 1 March 1988, 1990, 1992, 1994 and 1996, respectively. For the eighth periodic report of the Kingdom of Nepal and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/148/Add.1 and CERD/C/SR.787.

The annexes to the report submitted by the Government of Nepal may be consulted in the Secretariat's files.

The information submitted by Nepal in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.42.

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I. GENERAL

A. Nepal and its people

Physical and human geography

1. Nepal is a country lying on the southern slopes of the central Himalayas between China (to the north) and India (to the south). It is a landlocked country with an area of 147,181 km^2. Nepal is 885 km from east to west and 115 to 240 km from north to south. Within a brief span of 115 to 240 km the land rises from about 71 m above sea level to over 8,800 m above sea level and through a variety of climates ranging from the tropical to the arctic. Nepal is culturally and linguistically a highly pluralistic nation.

2. About 77 per cent of the land area of Nepal is covered by mountains and hills and topography is an extremely important feature when considering infrastructure and overall development efforts. Nepal can be divided into three areas: a low fertile strip running adjacent to India consisting of the forested churia foothills and the inner terai which rises to the Mahabharat Range (covering about 23.11 per cent of the area of the country); an area of hills between the Mahabharat and the Greater Himalayas, known as the mid-mountain range, which rises up to 4,500 m (roughly 41.68 per cent of the area of the country); and beyond that the Greater Himalayas themselves (35.21 per cent). Climatic conditions change dramatically from a humid tropical climate in the terai, to a subtropical climate in the hills and to a cool temperate climate in the mountains.

3. According to the 1991 census, the population of Nepal was 18.5 million. The estimate for 1995 was 20.7 million at a density of 126 persons per square kilometre. The population increased by nearly 3.5 million between 1986 and 1996 but the majority of the population still lives in small villages. The national diet consists of rice (where available), pulses and vegetables, which become sparser and more confined to root varieties in the high mountains.

Administrative, political and economic background

4. Nepal was unified in 1742 by the Gorkha King Prithvi Narayan Shah and the present King Birendra Bir Bikram Shah Dev is his direct descendant. From the mid-nineteenth century the country was ruled by the repressive Rana regime until the political movement of 1950 which led to the introduction of democracy and opened the country to foreign influence.

5. Nepal's brief experiment with democracy came to an end in the early 1960s with the imposition of the partyless Panchayat political system. In 1990 the Panchayat system was overthrown by a largely non-violent mass movement and a democratic constitutional monarchy was established under the Constitution of the Kingdom of Nepal 1990, which also adopted an egalitarian approach to deal with social problems.

6. After the successful culmination of the mass movement in 1990, the new democratic Constitution was promulgated with the widest possible participation of the people of Nepal, in whom the Constitution now vests sovereignty for the first time in the history of the country. The new Constitution also

guarantees basic human rights to every citizen, consolidates the institution of adult franchise, creates a constitutional monarchy and a system of multi-party democracy, and establishes an independent and competent judiciary with a view to transforming the concept of the rule of law into a living reality.

7. Elections to the directly elected 205-member House of Representatives, the lower house of parliament, were first held in accordance with the Constitution in 1991. The Nepali Congress Government held a mid-term election in November 1994, in which the Communist Party of Nepal (United Marxist-Leninist) won the largest number of seats (although no single party secured an absolute majority). The present coalition Government of three political parties led by the Nepali Congress Party was appointed in 1995 after the defeat of the year-old administration of the Communist Party of Nepal (United Marxist-Leninist). The Government is constituted under the Constitution of 1990 in accordance with which the country is governed.

8. Parliament consists of the House of Representatives and a 60-member National Assembly made up of people - including at least three women - appointed by the King, selected by the House of Representatives and elected by electoral colleges in the regions. At least one third of the present members of the House of Representatives are from ethnic minorities, including as many as 15 Tharu MPs. The Parliamentary Committee system includes, amongst many others, a Parliamentary Human Rights Committee and the Parliamentary Women's Rights Committee.

9. Nepal is divided for administrative purposes into five development regions: East, Central, West, Mid-West and Far West. There are 75 administrative districts within the 5 regions, each of which has a District Development Committee as the executive arm of local government. The smallest administrative areas in the country are the wards of the 3,995 Village Development Committees and 36 Municipalities. These local government bodies are elected by the adult population of the country and a strong base of democratic institutions at the local government level has been established to allow opportunities for all sectors of the population to participate in development and local-level decision-making processes.

10. Local government is subject to article 25 (4) of the Constitution of 1990 which declares that it shall be the chief responsibility of the State to maintain conditions suitable to the enjoyment of the fruits of democracy through wide participation of the people in the governance of the country and by way of decentralization.

11. During the period prior to the restoration of democracy in 1990, one Three Year Plan and five Five Year Plans were formulated and implemented. Evaluation of the major physical and economic indicators during the period presented a gloomy picture. With the restoration of democracy the perspectives of the popularly elected government have been based on two principal factors: to build on the positive aspects of the new aspirations and enthusiasm of the people, and to overcome the negative aspects of the legacy of economic depravity left behind by the Panchayat regime.

12. Since the restoration of democracy, Nepal has continued to depend to a great extent on foreign aid to meet its development policy and programmes. Even with large inflows of foreign aid for nearly half a century, development policies have been less effective than expected, economic growth has not increased and poverty is pervasive. Nepal has been classified as a developing country and is considered one of the poorest in the world. Per capita GDP in 1994 was estimated to be only US$ 202 and there has been only a marginal increase since the mid-1960s due to slow economic growth. From 1965 to 1990 real GDP grew only by 3.4 per cent annually. Growth in per capita GDP was even less, at 0.8 per cent per annum.

13. The people of Nepal struggle hard to make ends meet. About 70 per cent of production is of a subsistence nature and is not part of the cash economy. According to the 1991 census, about 81.3 per cent of the country's population are engaged in agriculture. The agriculture sector contributed roughly 42.4 per cent of GDP in 1993/94. With the population increasing at more than 2 per cent annually, landholdings are becoming smaller and threatening food security, especially in the hills and mountains. The level of industrialization is low even when compared with other LDCs. Cottage and small-scale industries have much potential for generating employment opportunities, and the Government has worked to ensure that that potential is realized following the restoration of democracy.

14. Nepal has recently become a centre of attraction for outside investors, not only for its abundant potential for hydropower development, but also as a tourist destination due to its unique natural beauty. The Government expects to earn larger amounts of foreign currency by the development of the water and tourism sectors.

15. Although the Government is committed to bringing about rapid industrial growth, inadequate infrastructure and inadequate incentives impose major constraints. A number of middle hill and mountain areas suffer from food deficit and off-farm employment is sought (often through seasonal out-migration) resulting in a sizeable proportion of seasonal as well as permanent female-headed households. The degradation of farm land due to population pressure exacerbates the food deficit resulting in increased out-migration of young people to work in cities, the southern plains region and abroad.

Social background

16. Under the Constitution of 1990 Nepal is formally designated a multi-ethnic and multilingual Hindu kingdom with freedom to all to profess their own religions and practices. This is the continuation of a process started at the time of unification of the country in the eighteenth century when Prithvi Narayan Shah ordained Nepal as a true Hindustan of 4 jats (castes), with 36 classes.

17. Socially, the caste system, which has its origin in Hinduism, still operates in Nepal. This system was originally based on division of labour, categorizing different people according to the work that they performed, but allowing those carrying out occupational trades to improve their situation by undertaking different types of work. Legally all forms of discrimination in

Nepal were fully abolished by the Muluki Ain (National Code) of 1963. This replaced the previous code based on the Manusmriti which had formalized and legalized caste discrimination.

18. The rationale behind the constitutional provisions reflects the reality that in all censuses since 1951, the Hindu population of Nepal has consistently been measured as constituting more than 86 per cent of the total. Buddhists constitute the next most populous religious group (7.78 per cent in 1991), followed by Muslims (3.53 per cent in 1991).

19. In different periods of the history of Nepal Kirants came from the north and Aryans came from south and west. In a way similar to the blending of Tibetan-Burmese and Indo-European languages which led to the emergence of the Nepali language, local people mixed with newcomers to form distinct Nepali races. The positive aspects of the race and caste differences which resulted are tolerance and social harmony.

20. The 1991 census report provides for the first time data on the ethnic/caste composition of the Nepalese population. Against this background, three main forms of social division deserve attention in Nepal. The first is between hill dwellers and people of the plains based on regionalism and ethnicity. The second is the split between various caste groups under Hinduism as elaborated by the memoirs of Manu in the "Manusmriti". The third is the religious split between Hindus and Buddhists, with Muslims and Christians also being represented in Nepal.

21. Such a broad categorization is not as simple as it looks, however, as there are altogether more than 100 distinct ethnic/caste groups in modern Nepal (with some estimates claiming as many as 167 groups). The 1991 census identifies more than 60 different groups but did not include some castes (such as Badhai, Dom, Halkhor, Koiri, Lohar, Mali, Pashi, and Tatma) and some ethnic groups (such as Byansi, Dura, Hayu, Khambu, Mech, and Pahari).

22. The peoples of Nepal speak at least 70 distinct languages. Whilst Nepali is the mother tongue of more than 50 per cent of the people, large numbers of people speak other languages including Maithili (11.85 per cent of the population), Bhojpuri (7.46 per cent), Tharu (5.37 per cent), Tamang (4.89 per cent) and Newari (3.73 per cent). In addition, there are more than 40 languages whose speakers together constitute less than 1 per cent of the total population in Nepal. With such a mix, no comprehensive study of the ethnic issues which have attracted attention in recent years has yet been possible.

23. In terms of social structure, caste people constitute 56.2 per cent of the total population. Ethnic groups make up 35.5 per cent and the rest are other minorities. Migration has played a major part in social structure. West-east migration after Gorkha unification and north-south migration after malaria control were particularly pronounced. Caste people outnumber ethnic groups in all three sectors of Nepal (the west (Karnali), the centre (Gandaki and Bagmati) and the east (Kosi) by a ratio of 56:30 with 13 per cent others). People of hill origin now constitute 83.1 per cent of the inner tarai and

30.9 per cent of the tarai population. By contrast, of 5.8 million people of lowland origin only 182,284 (or 3.1 per cent) are reported to be living in the highlands.

24. Nepal's ethnopolitics is different from that of many other countries. First, Nepal was never colonized. Second, it is the only Hindu kingdom in the world and gives constitutional protection to other religions and subcultures. Third, it has ushered in a democratic era on the back of a very fragile economic infrastructure. Fourth, geo-topography compels people to remain united in their social and cultural life, despite their particular subcultures. What is noteworthy in this broad cultural spectrum and multi-ethnic situation is that it is hard to demarcate boundaries between major and minor groups out of the 100 distinct ethnic/caste groups and about 50 languages of the population of 18 million. Despite such complexity and diversity, social conflicts are minimal and social harmony is well maintained.

25. Although it is difficult even to separate clans among Nepalese families, and although very few races have preserved their own economic life, social customs and cultural identity separate from other races in one place, there are some ethnic peoples who are still backward in modern economic, social and cultural terms. There are also some ethnic groups of people who cannot adequately look after their own interests or are in the primary stage of human development. Some peoples having a distinct cultural identity have not yet been able to adequately participate in government affairs. Such peoples include the Chepang, Raute, Kusunda, Jirel, Thami, Hayu, Pahari, Dhimal and Jhangad among the aboriginal and tribal groups; among the underprivileged groups that need encouragement and opportunities to participate in government affairs are the Dum, Mushar and Chama.

26. Whilst the State has categorized many underprivileged groups in Nepal as belonging to backward communities (it has been specifically mentioned, for example, that ethnic groups like the Praja, Jirel and Chhantel will be treated as socio-economically backward castes), the 1991 census suggests that at least 16 per cent of the population of Nepal belongs to an underprivileged group. This reality means that although outlawed since 1963 and made punishable by the democratic Constitution of 1990, untouchability is still practised in some sections of society.

27. In this context the Constitution of 1990 provides that the Government may take action to improve the situation of such groups and the provisions of article 11 allow such initiatives even though they may lead to disadvantaged groups being treated more favourably in some situations. Some of the directive policies of State action also make it clear that the advancement of disadvantaged groups must be of prime concern.

B. General legal framework within which racial discrimination is prohibited and human rights protected in Nepal

International instruments

28. In addition to ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, Nepal is a State party to, amongst others, the Slavery Convention, the International Covenant on Civil and

Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

29. In the course of implementing its international commitments, Nepal has made many reforms to domestic legislation.

Measures taken to harmonize national law with the provisions of the Convention

30. There were some non-specific laws even before Nepal became a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, such as the Assembly and Association Act 1945, the Civil Rights Act 1955 and the Muluki Ain (National Code) of 1963. The establishment of an independent judiciary under the Pradhan Nyalaya (High Court) Act 1952 aimed to ensure that people's rights could be secured by the new Government after the advent of democracy in 1951.

31. After 1971 further measures were enacted including Local Government and Decentralization Acts, Education Acts, Area Development Acts and statutes relating to security of the person (like the Human Trafficking (Control) Act 1986). Unfortunately, the nature of the governing regime prior to 1990 meant that the political will necessary for implementation was lacking.

32. Since 1990 Nepal has taken many appropriate legislative, administrative and other measures to implement the rights in the Convention. Several legal provisions have been repealed or amended, while some acts and regulations have been enacted so as to harmonize Nepalese law and policy with the provisions of the Convention. As a result of these and other initiatives, Nepal's record on human rights is recognized as being amongst the best in Asia.

The Constitution

33. The Constitution of 1990 seeks to protect all of those rights enumerated in the Convention. In addition, the Constitution spells out those directive policies and principles of the State in accordance with which Nepal must be governed. The political structures established by the Constitution provide for the maintenance of multi-party democracy on the basis of universal suffrage, and the provisions relating to the operation of the Supreme Court ensure that remedies are available for breach of any constitutional provision by Government, the executive or any individual.

34. Building on experience with the Muluki Ain in ending discrimination, article 4 of the Constitution of 1990 describes Nepal as "a multi-ethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and constitutional monarchical Kingdom". This complements article 2 which declares that "having common aspirations and united by a bond of allegiance to the national independence and integrity of Nepal, the Nepalese people irrespective of religion, race, caste, or tribe, collectively constitute the nation".

35. Although the Constitution officially designated Nepal a Hindu kingdom, other constitutional provisions guarantee that there is no discrimination against other religions and thus there is no mysticism about the secular character of the State. The Constitution protects the right of every person to profess and practise his own religion as handed down to him from ancient times, having due regard to traditional practices. Similarly, every religious denomination is guaranteed the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts.

36. The Constitution also recognizes all languages spoken in Nepal as national languages. Furthermore, the Constitution guarantees each community residing within the Kingdom of Nepal the right to preserve and promote its language, script and culture. In addition, each community has the right to operate schools up to primary level in its own mother tongue for imparting education to its children. Most significantly, no person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place or be deprived of the use of public utilities.

37. The fundamental rights protected by the Constitution include the right to equality before the law (art. 11 (1)), the right not to be discriminated against on the grounds of religion, race, sex, caste, tribe, or ideological conviction (11 (2)), the right of access to all public places and utilities regardless of caste (11 (4)), rights to freedom of opinion, expression, peaceable assembly, association, unionization, movement, and employment (12 (2)), the right to information (16), the right to preserve and promote culture and language (18 (1)), the right to education in the mother tongue (18 (2)), the right to profess and practise any religion (19), rights against exploitation, forced labour and trafficking (20), the right to protection against exile (21), the right to privacy (22), and the right to a constitutional remedy (23).

38. The directive policies and principles are not enforceable rights because an individual remedy may not be invoked directly in the Supreme Court, but all government activity must be carried out in accordance with them as far as resources allow. The chief objective of the State is expressed as being to promote conditions of welfare based on the principles of an open society by establishing a just system in all aspects of national life (art. 25 (1)). As part of this process the social objective of the State is to develop, on the foundation of justice and morality, a healthy social life by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities (art. 25 (3)).

39. To achieve national objectives in accordance with the directive principles, the Government of Nepal is committed to following policies which include: raising standards of living through education, health, housing and employment of people in all regions by equitably distributing economic resources (art. 26 (1)); strengthening national unity by promoting healthy and cordial social relations amongst the various religions, castes, tribes, communities and linguistic groups and by helping in the promotion of their languages, literatures, scripts, arts and cultures (art. 26 (2)); and

promoting the interests of economically and socially backward groups and communities by making special provisions with regard to their education, health and employment (art. 26 (10)).

40. The guarantee of basic human rights, multi-party democracy and the establishment of an independent judicial system are some of the unamendable features of the Constitution. The Constitution guarantees a fully representative system of government with an executive branch accountable to Parliament. Election laws ensure free and fair elections regulated by an independent Election Commission which has recently introduced a system of identity cards to ensure that all citizens are able freely to exercise their voting rights.

41. The judiciary, especially the justices of the Supreme Court, have been using the powers given to them in the Constitution to function as an independent and powerful entity. The Supreme Court has played a crucial role in deciding cases filed against the Government, and has helped to resolve the numerous constitutional issues which have arisen during the six years since the commencement of the new Constitution of 1990.

42. The Constitution restructured the judiciary from four tiers of judges to three to reduce the burden of delays in administering justice. By expanding the right of peoples to have easy access to the court system, the Constitution has helped to protect the rights and interests of minority groups and given birth to a healthy and rapidly growing system of public interest litigation.

43. Bodies established by the Constitution to regulate activity in public life make a significant contribution to ensuring that officials are independent and free from bias, and that their activities are monitored to avoid infringement of rights. The Public Service Commission, the Judicial Service Commission, the Commission for the Investigation of Abuse of Authority and the office of the Auditor-General are all designed to improve the work of Government and the executive and to limit abuse of authority. The instruction offered by the Administrative Staff Training College also fosters even-handedness in the execution of official functions and helps to protect the rights of those whose lives are affected by executive decision-making.

44. At the time the 1990 Constitution was drafted there were fears that it might erect a number of barriers prohibiting the exercise of fundamental rights on an ethnic, religious, linguistic and regional basis. It was argued that public interest provisos allowing the exercise of fundamental rights to be restricted in certain situations were directed towards eliminating all active ethnic and region-based ethnopolitical activities, and that requests to the Constitution Recommendation Commission for recognition of languages other than Nepali and religions other than Hinduism, and for the proportional representation of minority groups in the legislature, would be dismissed out of hand. Experience has proved such fears to be largely groundless.

45. The change in the political system in the country in 1990 was accompanied by many challenges as well as opportunities for the consolidation of democracy and the institutionalization of human rights. At this stage in

the democratic development of Nepal the country still lacks the technical, human and material resources needed to be able to begin adequately to address the growing expectations of the people.

Parliament and the executive

46. The work of members of Parliament in committees ensures that appropriate steps are taken to promote education, culture, health and social welfare, and that human rights are monitored and protected. The Parliamentary Foreign Affairs and Human Rights Committee and the Parliamentary Population and Social Committee are particularly active in this regard.

47. Since the restoration of democracy in 1990 the Government has been concerned to ensure that the work of individual ministries puts into practice a policy of promoting and protecting human rights. The work of ministries is regularly reorientated to reflect major human rights concerns in the country, and the Government has created new ministries whose work is designed to improve the human rights situation in the country - such as the Ministry of Women and Social Welfare, the Ministry of Labour, and the Ministry of Sport, Youth and Culture - wherever necessary.

48. The local government legislation of 1992 - under which 75 District Development Committees, 3,995 Village Development Committees and 36 Municipalities have since been established - allows local government bodies to appoint representatives of groups which would otherwise be unrepresented to ensure that all voices are heard at the local level.

49. To guarantee the fairness of local elections a new Local Body Election Act has been passed to regulate the election process, and elections are monitored by the impartial Election Commission set up under the Constitution.

The judiciary and the judicial process

50. All of the fundamental rights given under the Constitution are capable of being protected and enforced in the courts. The Constitution allows any citizen to exercise the right to a remedy by filing a petition in the Supreme Court (art. 88 (1)). This power allows citizens also to challenge government action which is inconsistent with the directive principles and policies. Upon determination of a petition the Supreme Court may issue any necessary or appropriate order to enforce rights and settle disputes (art. 88 (2)). These powers have been invoked in many situations in the years since the mass movement of 1990 and the Supreme Court has proved itself to be a champion of individual rights and democracy.

51. Leading judicial decisions have made a significant contribution to the protection of human rights. The Supreme Court has ruled, for example, that all discriminatory provisions of Nepali law incompatible with women's right to equality enshrined in the Constitution must be repealed. Rights to information were enhanced by landmark rulings during the disputes over the Indo-Nepal Tanakpur Treaty and the Arun III HEP project which made key documents more widely available. The courts have also reacted to a rise in public interest litigation by responding effectively to petitions brought by representatives of disadvantaged groups.

52. In a notable judgement on issues of caste discrimination the Supreme Court ruled invalid legislation which might have had the effect of denying entry to untouchable people to temples and other religious sites. The National Code provides that any person who practises discrimination based on caste or untouchability shall be liable to a fine of up to NRs 3,000 and/or up to one year in prison (sect. 10A). An explanation attached to this provision sought to establish that traditional caste discrimination in temples and religious sites would not attract punishment under the National Code. On an application by Man Bahadur Vishwakarma the Supreme Court ruled that this explanation was ultra vires as it was in conflict with article 14 of the Constitution.

53. The independence of the judiciary is guaranteed by the existence of the Constitutional Council which is responsible for appointing the Chief Justice (art. 117) and the Judicial Council which makes appointments to other judicial offices and regulates the activity of judges and other figures connected with the administration of justice. The Judicial Training College also helps to promote higher standards in those responsible for the administration of justice to ensure that individual rights are not denied by the legal system.

54. Access to justice for all is enhanced by the availability of legal aid to pay for legal representatives in all courts from the Supreme Court down to the lowest courts in the country. The activities of the Nepal Bar Association contribute to the coverage of this scheme.

55. A number of different statutes regulating the work of the courts in Nepal have helped to guarantee fair administration of justice for all.

Other instruments

56. A number of other acts and measures have been passed since the establishment of multiparty democracy in 1990 which help to implement Nepal's obligations under the Convention. Chief amongst these are the Social Welfare Act 1992, the Local Government Legislation of 1992 and the Children's Act 1992.

57. In 1997 the Government enacted the Human Rights Commission Act 1997 and is in the process of selecting suitable individuals to serve as commissioners. Parliament also passed the Government's Compensation for Torture Act 1997. Bills are currently before Parliament concerning women's rights, abortion, and reforms of the police.

58. The Social Welfare Act allows the Government to undertake any social welfare activities to provide services to make the backward classes of society economically and socially capable (sect. 2 (a)). The Act also allows the Government to make the necessary arrangements for the welfare of the backward classes and communities, as resources allow (sect. 4 (f)).

59. The Local Government Legislation of 1992 comprises the District Development Committee Act, the Village Development Committee (VDC) Act and the Municipality Act. A District Development Committee (DDC) is the executive arm of the District Assembly in each of the 75 Districts in Nepal. Under the scheme of the legislation each DDC is able to form subcommittees made up of

members of backward classes not represented on the DDC itself. Much of the work of development in the Districts is undertaken by VDCs and Municipalities. The education and culture functions of each such administrative body under the 1992 legislation oblige it to protect and promote different communities, religions, languages and cultures. In addition, in formulating plans VDCs and Municipalities are obliged to assign priority to programmes which yield direct benefits to backward classes and to the rural poor.

60. The Children's Act is a groundbreaking piece of legislation which provides a comprehensive framework for the protection of the rights of young people in Nepal. As part of that process the Act attempts to fulfil Nepal's obligations under the Convention on the Rights of the Child. As the children of minority and backward groups are most at risk from the effects of poverty, illiteracy and illness, the provisions of the Act have a proportionately greater impact on improving the situation of these children.

61. Other pieces of legislation which have the effect of improving the lives of disadvantaged minority and ethnic groups in Nepal include the Labour Act 1992 which lays down rules governing employment conditions and hours of work, the Development Banks Act 1996 which helps to make credit available for projects undertaken by people of specified classes in rural areas, and the Local Development Training Institute Act 1993 which provides for the operation of training programmes for people in rural communities.

The Eighth Plan

62. Since the early 1950s the Government of Nepal has been guided by the provisions of a series of national five-year plans. The current Eighth Plan was finalized in 1992 to cover the period between 1992 and 1997. The Plan is detailed and covers every aspect of the development of Nepal, but it repeatedly stresses the importance of equitable rural development for all the peoples of the country.

63. As part of the process of uplifting backward communities the Plan contains policies for special education for backward communities, priority for labourers from ethnic and tribal groups in government infrastructure plans, and targeted community development programmes for specific communities.

64. Since the Eighth Plan was published successive Governments of Nepal have frequently stressed their commitment to the advancement of all of the peoples of Nepal. In the budget provisions unveiled in July 1996 for the 1996-1997 financial year this commitment was boosted by the announcement of new funds to guarantee compulsory primary education in more than half of the 75 Districts of Nepal. At the same time, recognizing the fundamental part played in the development of Nepal by different languages, cultures, customs and systems inherited from the past, the Government committed itself to initiating an effective programme of study, research, conservation and promotion of cultural heritage, with further strengthening of programmes for oppressed and backward people.

Planned and existing mechanisms at the national or local level for coordinating policies relating to elimination of discrimination and for monitoring implementation of the Convention

65. The new Ninth Plan to cover the five years of development from 1998-2003 will build on progress made during the Seventh and Eighth Plan periods following the establishment of democracy. Enhanced programmes for the elimination of discrimination within the resources available to Government will help further to uplift disadvantaged groups in Nepal. This document is expected to be finalized in the summer of 1997.

66. The establishment of District Child Welfare Boards throughout Nepal in accordance with the provisions of the Children's Act 1992 will allow regional monitoring of the situation of children in the poorest and most marginalized ethnic communities in Nepal. The information gathered during the work of these committees will strengthen Nepal's ability to protect and promote the human resources of the future.

67. Departments and other sections within government ministries, such as the Women Farmers Development Division and others relating to women's issues in the Ministry of Women and Social Welfare, will continue to monitor the lives of women in rural communities. The focus provided by these bodies will allow the most disadvantaged elements of society to be identified and targeted.

Contribution of NGOs and international organizations

68. The activities of NGOs are crucial to the elimination of all forms of discrimination in Nepal. It would be impossible for the Government of an impoverished country like Nepal to claim that despite pressing economic problems and numerous social pressures certain sections of such a diverse society were never the victims of discrimination by others. Whilst the work of Government can mobilize resources to tackle the social problems which manifest themselves as discrimination, the assistance and vigilance of NGOs, especially those working with people on the margins of society, can achieve much.

69. There are many NGOs in Nepal today actively fighting discrimination in all its forms. International donors provide funding to some local NGOs and such support is actively encouraged by the Ministry of Women and Social Welfare. The Societies' Registration Act 1977 and the activities of the Ministry of Women and Social Welfare are designed to enhance the contribution of all NGOs as much as possible. The Village Development Committee Act 1992 and the Municipality Act 1992 require local government bodies in Nepal to include NGOs in local development activities and to promote their activities.

Activities of INGOs

70. As well as supporting the activities of local Nepali NGOs, international non-governmental organizations (INGOs) are responsible for planning and implementing their own projects for uplifting those on the margins of society.

71. Different INGOs from Japan, North America, Europe, Australia and many other countries have promoted successful INGO initiatives which, amongst other things, have made scholarships available to the children of underprivileged groups to attend formal schooling, increased living standards for the poorest of the poor, and made Government-run schools available in underprivileged areas.

Bilateral agencies

72. One of the more successful programmes for minority groups currently in existence is operated in Chitwan. In 1992 the Praja Development Programme was set up in one VDC. The results were encouraging and SNV, the Dutch development agency, was invited by the Government to take over the project and extend it. The new project should be executed in four VDCs with a population of 10,500 of the minority ethnic Chepang (or Praja) people. It is a general development project which aims to strengthen the social and economic situation to the population, including improvement of health care.

73. Other bilateral agencies from Japan, North America, Europe, Australia and many other countries are also actively working with underprivileged people.

Activities of United Nations bodies

74. The activities of some United Nations agencies - such as UNICEF - have had an undeniably positive effect on helping to eliminate discrimination against sections of society in Nepal. In general however, the need for Government to deal with the impacts of global events (such as currency devaluations, price hikes, the shift from subsistence agriculture to cash crops for export, an end to subsidies for farmers and other consequences) has limited the impact of such activities in social terms.

C. Dissemination of information on human rights issues in Nepal

Measures taken to make the principles of the Convention widely known

75. School essay, poetry and poster competitions are regularly held to increase understanding of human rights and discrimination in general. In addition, NGOs and INGOs hold frequent training courses and seminars, and prepare exhibitions for the general public.

Measures taken or foreseen to make the report widely available to the public

76. This report will be made available to the people of Nepal through the Ministry of Women and Social Welfare. It will be distributed to NGOs and INGOs, and it is anticipated that workshops and seminars will be run under the aegis of the Ministry. The mass media will be briefed on the contents of the report at the time it is made available.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

Special and concrete measures (economic, cultural, other) to ensure adequate development of racial groups

77. Some of the social programmes included in the current Eighth Five-Year Plan to promote the interests of backward as well as minority groups are as follows:

(a) Raute Rehabilitation Programme. The Rautes are considered the most backward ethnic group in Nepal. They are being rehabilitated through the joint efforts of governmental and non-governmental organizations. The programme, which began three years ago, will benefit 375 Rautes who will all be provided with houses.

(b) Bonded Labour Rehabilitation Programme. Bonded labour exists amongst underprivileged communities in many different districts of far west Nepal. In order gradually to eliminate bonded labour, the children of bonded labourers will be provided with education, both formal and non-formal, as well as vocational training. Twenty persons (mostly children) from each of the Districts of Banke, Dang, Bardia, Kailali and Kanchanpur in west Nepal, will benefit from this programme.

(c) Social security and development. Ten girls from backward communities in far west Nepal have been brought to Kathmandu and are being provided formal education to create public awareness about the Deuki system.

78. The individual programmes of different ministries, including the Ministry of Women and Social Welfare, are targeted at the most disadvantaged elements of society. Two specific approaches were adopted for the improvement of projects: (i) design of programmes specifically and exclusively for women and (ii) incorporation of Women in Development themes within existing development programmes and projects. Following the first approach projects of major significance were designed, e.g. credit and small farmer development. In addition, a women's agricultural unit was established and a Women Farmer Development Division was established. These initiatives aimed at women are representative of an approach which recognizes that women and children of minority and ethnic communities bear the brunt of discrimination in their daily lives.

79. During the eighth session of Parliament in 1995 the then Minister for Information and Communications made it clear that the five radio broadcasting centres in the country would be used for uplifting and protecting local folk literature and folk culture and art hidden from the mainstream, and stated that no discrimination would be made between remote and accessible areas in this provision.

80. Whilst the Government has undertaken all possible measures for the effective realization of the Convention by systematically addressing the problems, many obstacles and difficulties have been experienced in mobilizing and allocating sufficient resources to ensure that the economic and social

rights of minority and ethnic groups and others which have been the victims of discrimination are protected. Serious economic difficulties conspire to undermine commitments in the face of the need to respond to global economic pressure, including the heavy burden of foreign debt and debt services.

Special and concrete measures (economic, cultural, other) to guarantee full and equal human rights

81. The Constitution of 1990 makes clear that the chief responsibility of the State is to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralization, and to promote general welfare by making provisions for the protection and promotion of human rights, by maintaining tranquillity and order in the society (art. 25 (4)). The Government presented a bill, which was passed by Parliament, for establishing a National Human Rights Commission. The Government is now selecting suitable people to serve as commissioners on the Commission set up by the Human Rights Commission Act 1997. Under the programme of eradicating the bonded labour system, the Government has allocated funds for the eradication of the Kamaiya system.

82. New environmental impact assessment guidelines promulgated by the Government stress that the rights of ethnic people likely to be effected by proposed development must be a prime consideration in the assessment process.

Article 3

Legislative, judicial, administrative or other measures to end segregation

83. The Constitution makes it clear that all the peoples of Nepal have the right to be treated equally and not to be discriminated against on the basis of caste. It is equally clearly stated that all have equal rights of access to public places. Chief District Officers in each of the Districts of Nepal have the responsibility of investigating claims of discrimination. In addition, VDCs and Municipalities are charged with protecting and promoting backward classes in their areas of administration. Against this legislative background the Government is committed to educating society so as to eliminate caste discrimination.

Article 4

Creation of offences of violence or incitement

84. The Assembly and Association Act 1949 creates offences of racial violence and incitement to racial hatred. The Act provides that if any organization acts with a view to incite hatred of any other group of people, the perpetrators shall be punished (sect. 5 (i)). The Act also provides that the making of threats which cause disorder is an offence (sect. 5 (j)). Most significantly, any act, speech, gesture or representation which suggests that any group of people is in any way inferior to another is punishable (sect. 5 (k)). Offences under section 5 of the Act are punishable by imprisonment for a period from six months to life and/or a fine of up to

NRs 2,000. The Act also gives the Chief District Officer in each District of Nepal the power to impose further restrictions on racially motivated activity as he sees fit.

85. Section 10A of the Muluki Ain (National Code) 1963 makes it an offence for any person to practise discrimination on the grounds of caste or untouchability. Such activity can result in a fine of up to NRs 3,000 and/or imprisonment for up to a year.

Imposition of ban on official promotion of discrimination

86. Rule 9 of the Broadcasting Rules 1995 (under the Broadcasting Act 1993) provides that materials which create animosity or spread communal ill-feelings among people belonging to different castes, communities, religions, classes, regions and sectors may not be broadcast.

Article 5

Protection of the right to equal treatment before tribunals or other organs administering justice

87. Legislative provisions. The Constitution protects, amongst others, the following rights: the right to equality before the law (art. 11 (1)); the right to equal protection from the law (art. 11 (1)); the right not to be discriminated against in the application of the general law on the grounds of religion, race, sex, caste, tribe or ideological conviction (art. 11 (2)); the right not to be discriminated against by the State on the grounds of religion, race, sex, caste, tribe or ideological conviction (art. 11 (3)); the right not to be discriminated against as untouchable on the basis of caste (art. 11 (4)); the right not to be denied access to public places on the basis of caste (art. 11 (4)); the right not to be deprived of the use of public utilities on the basis of caste (art. 11 (4)); and the right to a constitutional remedy for the enforcement of all fundamental rights (art. 23).

88. The Constitution also states that the chief objective of the Government is to promote conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property and liberty of the people (art. 25 (1)). A subsidiary principle is the social objective which is to establish and develop, on the foundation of justice and morality, a healthy social life, by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities (art. 25 (3)).

89. Rights to equality are subject to the important priviso that the Government may make special provisions by law for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated, or those who belong to a class which is economically, socially or educationally backward (art. 11 (3)). Using this proviso, the Government has required Chief District Officers in each of the 75 Districts of Nepal to ensure that no ethnic person is exploited as a result of a legal transaction involving sale of land.

90. Section 3 of the Civil Liberties Act 1954 deals with the right to equality and section 4 prohibits any restrictions on any citizen on the basis of religion, race, sex or caste.

91. Implementation. The Government is committed to providing equal opportunities, whether they be in the field of education, health, or other fields, to all the people of Nepal. In a bid to provide basic needs in rural areas and improve living standards, the Government has allocated an additional NRs 500,000 (approximately US$ 10,000) per year for each VDC for the development of rural areas.

92. The Government, NGOs and international organizations are supporting backward communities in the fields of education, health care and nutrition in order to upgrade their living standards.

93. Discrimination based on race and caste has not yet been completely eliminated. If a case of racial discrimination is filed in the District Administration Office, however, action can be initiated against such activity.

94. Constraints. In some communities it is difficult for children of different castes to mix together because people are frequently not aware of their rights. Increased coverage of free primary education will help to improve this situation.

Protection of the right to security against bodily harm

95. Legislative provisions. The Constitution protects, amongst others, the following rights: the right not to be enslaved in any form (art. 20 (1)); the right not to be treated as a serf (art. 20 (1)); the right not to be forced into labour (art. 20 (1)); the right not to be the subject of trafficking (art. 20 (1)); the right to a minor not to be employed in any factory (art. 20 (2)); the right of a minor not to be employed in any mine (art. 20 (2)); and the right of a minor not to be engaged in any hazardous activity (art. 20 (2)).

96. The chapter on Human Trafficking in the Muluki Ain (National Code) 1963 prohibits the sale of human beings, making it a criminal offence. Under the Human Trafficking (Control) Act 1986, such an act is also punishable by a 15-year prison term.

97. The law prohibits engaging children and women in immoral activities. Section 16 of the Children's Act states that nobody should use or involve children in immoral acts or in pornographic acts (including photography). Section 14 of the Act prohibits parents from selling their children for making offerings to the gods during religious rites or rituals.

98. The Muluki Ain (National Code) 1963 makes it an offence for any person to kill, attempt to kill, or to incite another to kill a person (part 10). Punishment on conviction may lead to imprisonment for life or some lesser term. The Code further provides that an assault leading to wounding or other serious injury may incur a punishment of up to eight years in prison (part 9).

99. Implementation. Some NGOs are working to do away with the Deuki system, a tradition in west Nepal in which girls are forced into the flesh trade after being offered to a temple. A girl becomes a Deuki when she is bought from a poor family to be offered to the gods. Traditionally, after a girl becomes a Deuki she cannot marry and often engages in prostitution for economic support. The child of a Deuki, known as a Devi, is accepted in society, but finds it difficult to get married because of a traditional belief that some disaster will strike the husband's family. As a result, the Devis are also pushed into the flesh trade. There are more than 250 Devis scattered across Baitadi District in far west Nepal.

100. The Government has made scholarships available to Deukis for education in Kathmandu. Help is also being given for income generation and education for Deukis in Melauli village of Betaidi District with support from UNICEF. About 10 girls have been brought to Kathmandu and given an opportunity for formal education by the Government. The Government has also inducted Devis into the police force to give them an alternative livelihood. Feature films and telefilms have played a crucial role in creating awareness about the Deuki system. Some NGOs are providing shelter and training to girls who have returned or escaped from brothels in India.

101. The Badi caste, which traditionally earned their living as entertainers, dancing and making music, have now adopted prostitution as their profession. Through support from UNICEF and Nepali NGOs, Badis have taken to income-generating activities such as fruit and vegetable farming, skill development programmes, literacy classes and formal education.

102. Constraints. Despite existing legal provisions, it is known that sexual exploitation of adolescents and minor girls does occasionally take place. Due to an open border with India, it is extremely difficult to stop trafficking in children. It has been reported that some children are forced into begging or prostitution. The children of the poorest marginal groups are most at risk from these activities.

Protection of the right to participate politically on the basis of universal suffrage

103. The Constitution enshrines the principle of universal suffrage for elections to the House of Representatives (art. 45 (5)). Election of members to represent wards, VDCs, Municipalities and DDCs is also by universal suffrage.

104. In addition to the principle of universal suffrage, the local government legislation of 1992 allows each DDC, VDC and Municipality in Nepal to form subcommittees and an advisory committee according to need which may include backward classes not represented on the relevant local body.

Protection of other civil and political rights

Freedom of movement and residence

105. The Constitution protects, amongst others, the right to move freely throughout Nepal (art. 12 (2) (d)); and the right to reside in any part of Nepal (art. 12 (2) (d)).

106. Most rights protecting fundamental freedoms are subject to exceptions if national security or the public interest are threatened.

Right to international travel

107. There are no restrictions on the right of Nepali citizens to obtain a passport. With a very long, largely open border with India, Nepali citizens are able easily to cross land frontiers.

Right to nationality

108. Article 9 of the Constitution and section 3 of the Citizenship Act guarantee the citizenship of Nepali citizens. Nepali children become citizens at birth. A foreign woman who is married to any citizen and who has initiated proceedings to renounce her foreign citizenship may acquire Nepalese citizenship.

109. Efforts are being made to reduce the difficulties faced by people living in different regions, especially the terai and upper hill areas, in obtaining citizenship certificates due to insufficient substantiating documents. A recent government initiative led to the establishment of a high-level special committee to look into citizenship issues and address grievances at the local level. The committee's remit to investigate matters in 20 Districts will be expended over time.

Right to marriage and choice of spouse

110. There are no restrictions on the right to marriage or choice of spouse except those for the protection of children. The Muluki Ain (Civil Code) of 1963 states that marriage may be contracted according to will by mutual consent. A minimum age is prescribed below which a person may not marry and punishment is provided in situations where adults have involved children in illegal marriages.

111. Although historically Nepali society was not able to accept intercaste marriages, which were outlawed by the Civil Code of 1863, attitudes have changed significantly. Difficulties can still arise but examples are less frequent.

Right to inherit

112. The Constitution protects, amongst others, the right to acquire, own, sell and otherwise dispose of property subject to existing laws.

113. The scheme for inheritance of property is regulated by the Muluki Ain which provides that women may inherit only in limited circumstances. There is no restriction on inheritance by members of ethnic or minority groups or any other section of male society. The provisions of the Muluki Ain discriminating against women in matters of inheritance were challenged in the Supreme Court and the Government is reviewing its family law provisions on inheritance in accordance with the judgement given.

Right to freedom of conscience, thought and religion

114. The Constitution protects, amongst others, the right to practise religion handed down from ancient times (art. 19 (1)), and the right of each denomination to maintain its existence and manage its affairs (art. 19 (2)). Proselytizing is prohibited.

115. Children normally tend to follow the religion of their parents. Because of religious tolerance people of different faiths live in harmony with one another.

Right to freedom of opinion and expression

116. The Constitution protects, amongst others, the right to freedom of opinion (art. 12 (2) (a)), and the right to freedom of expression (art. 12 (2) (a)).

Right to freedom of peaceful assembly and association

117. The Constitution protects, amongst others: the right to assemble peaceably and without arms (art. 12 (2) (b)); the right to form unions (art. 12 (2) (c)); the right to form associations (art. 12 (2) (c)); the right to practise any profession (art. 12 (2) (e)); the right to carry on any occupation, industry or trade (art. 12 (2) (e)).

118. As far as the legality of associations is concerned, only an association whose members possess Nepalese citizenship certificates may be registered.

Protection of economic, social and cultural rights

Rights to work, etc.

119. Legislative provisions. The Constitution protects, amongst others, the right to practise any profession (art. 12 (2) (e)) and the right to carry on any occupation, industry or trade (art. 12 (2) (e)).

120. Under the Constitution the Government is obliged to follow the directive policy of raising living standards through the development of infrastructure by equitably distributing investment of economic resources for balanced development in the various geographical regions of the country (art. 26 (1)). This includes the employment of people in all regions of the country.

121. Another policy which the Constitution obliges the Government to follow is promotion of backward groups and pursuance of a policy which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their employment (art. 26 (10)).

122. Forced labour is prohibited by part 4 of the Muluki Ain (National Code) 1963.

123. Implementation. A key policy in the Government's Eighth Five-Year Plan is to set up a series of rehabilitation programmes for young women who have been compelled to take up socially degrading professions. These programmes will be designed to make the women self-sustaining through the learning of occupational skills such as functional literacy, nutrition and health education, vegetable farming and tree planting. The Plan also makes a commitment to organizing training programmes for labourers from backward ethnic communities in remote areas.

124. In addition, a high-level commission was recently set up, under the chairmanship of the Prime Minister, to create many new jobs at the local level.

125. Constraints. The State bureaucracy plays a vital role in the development process. It is also the largest employment sector in Nepal. Dominant social groups, however, have monopolized administrative posts whilst underprivileged ethnic groups are under-represented. The Government is working to overcome this imbalance.

Right to form and to join trade unions

126. The Constitution protects, amongst others, the right to form unions (art. 12 (2) (c)) and the right to form associations (art. 12 (2) (c)).

Right to housing

127. Legislative provisions. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes housing.

128. Implementation. As part of the activities of the Eighth Five-Year Plan, the Government undertook to arrange settlement for landless people and to provide basic services. The Plan aimed to rehouse some 25,000 families as part of wider poverty alleviation programmes.

Right to public health, medical care, social security and social services

129. Legislative provisions. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes health.

130. The directive policy in the Constitution of promoting backward groups obliges the State to pursue a policy which will help promote the interests of economically and socially backward groups and communities by making special provisions with regard to their health (art. 26 (10)).

131. While formulating their plans, VDCs and Municipalities must assign priority to programmes which yield direct benefits to backward classes and to the rural poor.

132. The Government may initiate programmes to make necessary arrangements for the welfare of backward classes and communities under the Social Welfare Act (sect. 4 (f)).

133. Implementation. One of the main objectives of the Eighth Plan is to improve the economic and social conditions of backward regions and to upgrade the socio-economic status of the rural population and deprived backward communities. Key policies for achieving this objective include launching special socio-economic programmes for the well-being of socially and economically weaker sections of the rural population and ethnic tribes.

134. The Government is committed to providing equal opportunities in the field of health to all the people of Nepal. In a bid to provide basic needs in rural areas and improve living standards, the Government has allocated an additional NRs 500,000 (US$ 10,000) per year for each VDC for the development of rural areas through the Village Self-Reliance Fund and other initiatives.

135. The Government, NGOs and international organizations are supporting backward communities in the field of health in order to upgrade their living standards.

136. Some of the social welfare programmes included in the current Eighth Plan period are:

(a) Social Welfare Centres. These are specifically meant for children of backward communities and ethnic groups. A total of eight centres will be established during the plan period. Seven centres, in which 208 children are provided food, shelter and education, have already become operational;

(b) Social Protective Scholarship Programme. This programme was set up to benefit children from backward communities who are engaged in anti-social activities. Scholarships will be given to about 4,000 children to enable them to receive education and various kinds of training. By 1993, 710 scholarships had already been distributed;

(c) Social security and development. Ten girls from backward communities in far west Nepal have been brought to Kathmandu and are being provided formal education to create public awareness about the Deuki system;

(d) Bonded Labour Reform Programme. The plan aims to give 20 bonded labourers and their families from the west education and vocational training for six months.

137. The Government is aware that it should provide children with better opportunities for education, health care and other basic services to enable them to grow into productive adults. The Children's Act and the Labour Act are to be effectively enforced and gradually improved to cover additional areas. For the protection of working children in the informal sector, suitable legislative provisions will be introduced. Special centres to impart vocational skills are to be established in each of the 14 zones of the country.

138. Studies and surveys are to be undertaken to collect relevant data on the actual status of working children, including bonded child labourers, so as to formulate realistic plans and programmes. Measures are to be taken to raise public consciousness of the exploitation of working children. NGOs and local communities will be encouraged to act as pressure groups.

139. The establishment of a social security system is one of Nepal's priorities.

140. Constraints. Climate is a major constraint on improving the health of underprivileged communities in Nepal. An example of this is in Mushar communities where life expectancy is only 42 years as against the 52-year national average. Local economic conditions also make health initiatives difficult and about 75 per cent of the children of the 6,000-strong Mushar communities of Sagarmartha, Koshi and Janakpur lack clothing because of the poor local economy.

141. Illiteracy and ignorance also compel people in underprivileged communities to live in unhygienic conditions, which further deteriorates health. Malnutrition, lack of family planning and limited access to clean drinking water means that people in some communities are prone to disease. The Government's development initiatives and education policies will help to overcome these problems over time.

Right to education and training

142. Legislative provisions. The Constitution protects, amongst other things, the right of each community to preserve and promote its language, script and culture (art. 18 (1)) and the right of each community to operate primary schools in its own mother tongue (art. 18 (2)).

143. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes education.

144. The directive policy in the Constitution of promoting backward groups obliges the State to pursue a policy which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their education (art. 26 (10)).

145. The education and culture functions of VDCs and Municipalities include an obligation to protect and promote different communities, religions, languages and cultures.

146. Implementation. The Government is committed to providing equal opportunities in the field of education to all the people of Nepal. In a bid to provide basic needs in rural areas and to improve living standards, the Government has allocated an additional NRs 500,000 (US$ 10,000) per year for each VDC for the development of rural areas through the Village Self-Reliance Fund and other initiatives.

147. The Government, NGOs and international organizations are supporting backward communities in the field of education in order to upgrade their living standards.

148. Under the budget for 1996-1997 compulsory free primary education will be implemented in some Municipalities and VDCs in 40 Districts. The Government is committed to make free primary education available to all and is targeting primary schools in all areas to improve coverage. Activities under the Basic Education Project supported by the Japanese Internation Cooperation Agency (JICA) and the World Bank, and the provision of free materials generally to government schools, will help to realize the goal of free primary education.

149. As language, culture, customs and systems inherited from the past are the valuable assets of nations, an effective programme of study, research, conservation and promotion of cultural heritage will be initiated from the next fiscal year (1996-1997). Programmes for oppressed and backward people will be further strengthened under the provisions of the budget for 1996-1997.

150. The national objectives of education as specified in the report of the National Education Commission in 1992 and endorsed by the Government include contributing to the full development of individual faculties and personalities, and helping persons and communities that lag behind in society to integrate with the national mainstream. To achieve these and other aims the educational policies in the Eighth Plan include: universalizing primary education; raising the literacy rate to 67 per cent by the year 2000; providing local bodies with the necessary authority to implement a free and compulsory education system; providing scholarships, awards and uniforms to girls so as to raise levels of enrolment and to reduce drop-out rates; emphasizing the non-formal education programme through governmental organizations as well as NGOs; strengthening special education programmes; upgrading the school curriculum so as to make it more appropriate to the situation of present-day Nepal; promoting art as well as cultural activities; encouraging research activities aimed at making education more relevant to the country's needs; and implementing the Basic and Primary Education Project in all districts.

151. New textbooks and a new curriculum are being developed for the country's primary schools to improve the quality of teaching and learning the primary schools system. New textbooks for up to class 3 have been introduced throughout the kingdom. All headmasters and teachers in the country for primary classes 1 through 3 have been given training in the new materials and curriculum. Since 60 per cent of the primary school teachers are untrained, this is often the only training they receive. Primary school buildings are being provided with assistance from JICA.

152. Secondary education is becoming more available to students completing primary school. A more comprehensive Secondary Education Development Project to promote reforms in all aspects of secondary education was initiated in 1993 with support from the Asian Development Bank.

153. Under the Education Regulation (1992), a National Council for Non-Formal Education has been constituted to formulate policies, coordinate programmes, carry out follow-up activities and supervise non-formal education. The Council, comprising representatives from various related ministries and NGOs, is chaired by the Minister of Education, Culture and Social Welfare.

154. Many governmental and non-governmental organizations are involved in the non-formal education (NFE) sector including: the National Council for Non-Formal Education; District Committees for the Development of Non-Formal Education; the NFE Unit of each District Education Office; Village Literacy Campaign Committees; and the NFE Unit in each Regional Directorate.

155. Vocational training is provided through different programmes run by the Ministry of Education and Culture, the Ministry of Labour and the Ministry of Industry. The technical schools under the Ministry of Education, Culture and Social Welfare provide training in various trades.

156. To uplift people living in 18 rural remote areas of Nepal, special provision has been made in the field of higher and technical education for the students coming from such areas by allocating 10 per cent of seats to them.

157. Constraints. Traditionally there has been little formal education in the different ethnic language groups of Nepal. Many of these groups do not have a written tradition. Teaching them in their own language, therefore, poses a problem. As the Government is constantly engaged in other serious economic and political issues, the needs of the minority groups have tended to receive little attention.

158. While the Constitution recognizes all mother tongues as national languages, the scale and cost of the task has made it impossible to arrange to teach them all in schools. The Constitution guarantees the right of indigenous people to run primary schools in their mother tongue but with the limited resources available to it the Government has not been able to help in the establishment of such schools.

159. Despite tremendous growth in the education sector, Nepal still faces many challenges. Children in remote areas do not have easy access to education, although primary education is free. The Government has attempted to identify such key problems within the formal system and is seeking to address them.

Right to equal participation in cultural activities

160. Legislative provisions. The Constitution protects, amongst other things, the right of each community to preserve and promote its language, script and culture (art. 18 (1)). The Constitution also obliges the State, while maintaining the cultural diversity of the country, to pursue a policy of strengthening national unity by promoting healthy and cordial social relations

amongst the various religions, castes, tribes communities and linguistic groups, and by helping in the promotion of their languages, literatures, scripts, arts and cultures (art. 26 (2)).

161. The Municipality Act has provisions to make arrangements for recreational places, such as playgrounds, museums, parks and libraries.

162. Implementation. The Eighth Plan made special provision for programmes for tribal and aboriginal groups in the hills and terai who had not benefited from general development programmes in the past. The Plan also recognized that for achieving growth with justice it was necessary to improve the living standards of the weaker sections of society as well as to make efforts to develop the language, culture, art and literature of tribal people in remote areas. In taking these steps, the Plan emphasized the need to make all programmes appropriate to the communities to which they were targeted.

163. The Cultural Corporation was mandated by the Plan to conduct activities relating to the search for, compilation and promotion of cultures and arts of different ethnic groups. As part of this process the Corporation organized live displays to promote different ethnic groups.

164. As language, culture, customs and systems inherited from the past are the valuable assets of nations, an effective programme of study, research, conservation and promotion of cultural heritage will be initiated from the next fiscal year (1996-1997). Programmes for oppressed and backward people will be further strengthened.

165. Constraints. What few recreational facilities are available are found only in urban centres. Very few cultural activities are organized in schools in rural areas. Due to abject poverty in rural areas and urban slums, most children find little time for leisure anyway. Even in urban areas, however, Municipalities have not been able to do much for children's recreation. There is a severe shortage of playgrounds, even in the capital. There are few parks and playing fields and, as the cities expand, fewer and fewer play areas are left for children.

Protection of right of access to any public place

166. Legislative provisions. The Constitution protects, amongst other things, the right not to be denied access to public places on the basis of caste (art. 11 (4)) and the right not to be deprived of the use of public utilities on the basis of caste (art. 11 (4)).

167. The challenge brought by Man Bahadur Vishwakarma to a provision of the Muluki Ain which sought to justify discrimination in access to religious sites is an excellent example of how this right has been protected in Nepal.

Article 6

Availability of effective protection and remedies in competent national tribunals to guarantee fundamental freedoms

168. Legislative provisions. The Constitution protects the right to a constitutional remedy for the enforcement of all fundamental rights (art. 23). Article 16 of the Constitution guarantees the right to demand and receive information on any matter of public importance.

169. The ability of the Supreme Court to issue any remedy for the enforcement of rights has been used on many occasions since 1990 and shows that rights can be effectively protected.

Availability of reparation and satisfaction for damage as a result of discrimination

170. The constitutional powers of the Supreme Court are not restricted by any limits on compensation which may be awarded where constitutional rights are shown to have been infringed. The Supreme Court has extremely wide powers to match its remedy to the wrong adjudged to have been done in a given situation and to provide satisfaction for that wrong.

Article 7

Education, cultural measures and information

171. Seminars are often held for such people as teachers, lawyers and journalists as a way of sending information on children's issues and the Convention back to local communities.

172. World human rights days are observed in Nepal with school events and education programmes. For the International Year of the World's Indigenous Peoples in 1993 the Government set up a national committee to advance the situation of groups of under privileged people in Nepal.

173. There are now many magazines and books which are published locally with information for and about people from disadvantaged groups in Nepal, including The Chhalphal Weekly, Thongtang (the first weekly in the Chepang language), Varta Saptahik and Yug Sambad Weekly.

174. Every day Radio Nepal broadcasts a children's programme, apart from programmes based on the school curriculum, but Nepal TV coverage is limited to the cities. The Government's decision to broadcast news on the radio in different languages spoken across the country should help people to become more informed.

Conclusion

175. Although Nepal has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, implementation of the provisions of the Convention has not been as comprehensive as the Government is intending to achieve. Rural poverty, traditional social barriers and a

lack of awareness about rights are major constraints in implementing the provisions so as to secure an end to discrimination. The process of consolidating democratic institutions also sometimes slows down the process.

176. The plight of victims of discrimination is directly related to existing economic conditions prevailing in the community and the legacy of previous regimes. The Government recognizes the problems and is actively working to identify solutions but in the time available since the restoration of democracy in 1990 it has proved hard to tackle all potential causes of discrimination.

177. Underutilization of scarce resources, low literacy rates and a lack of adequately equipped institutions cause inefficiency, poor enforcement and implementation of laws, and limited participation by target groups. These have all been barriers to meeting planned targets. The Government is doing its best to ensure proper coordination and networking among programmes as well as to remove bureaucratic red tape which has limited action on some problems which need urgent attention.

178. Given the resource constraints of the Government, NGOs are increasingly encouraged to step in to promote the interests of the child for, as long as poverty looms large, discrimination and exploitation will continue to exist in one form or another.

179. Despite many challenges, notable achievements have been and are being made. The commitment to widening the coverage of primary education will raise levels of understanding across the country and will help to promote even greater tolerance. With this and other initiatives already in place, great progress has been made since 1990 in eliminating discrimination.

List of annexes

1. Laws and Regulations relating to child welfare and development

2. Basic indicators

3. Facts and figures on the ethnic make-up of Nepal

4. Information on certain tribal groups

5. References